

Exhibit 96



US Army Corps
of Engineers.

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: WestPoint Marina

NUMBER: 22454S

DATE: 17 May 2002

RESPONSE REQUIRED BY: 16 June 2002

PROJECT MANAGER: Phelicia Gomes

PHONE: (415) 977-8452

E-MAIL: pgomes@spd.usace.army.mil

1. INTRODUCTION: Mr. Mark Sanders (16075 Skyline Boulevard, Woodside, CA 94062. 650-237-1610) has applied for a Department of the Army permit authorizing the discharge of fill to construct a full service marina, boat maintenance area and related facilities on property he owns containing jurisdictional waters of the United States. The proposed project site is located in San Mateo County at the terminus of Seaport Boulevard, southeast of Redwood Creek and the new Pacific Shores Center and south of Westpoint Slough in Redwood City, California. This application is being processed pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act (33 U.S.C. 403).

2. PROJECT PURPOSE: The overall project purpose is a recreational boating facility. The basic project purpose is to create a publicly accessible marina, with associated boatyard, retail and visitor center facilities at a scale and location suitable to serve the peninsula and southern regions of the San Francisco Bay Area.

3. PROJECT DESCRIPTION: As shown in the attached drawings (See sheets 1 through 15.), the applicant plans to construct a 408 slip marina, boat maintenance area, 10,000 square foot restaurant and 20,000 square feet of supporting retail facilities with approximately 400 parking spaces. The proposed project area is roughly 42 acres and consists of vacant land that was formerly used by the Cargill Salt Company. A portion of the proposed site is a historic salt pond that contains "bittern" (a toxic by-product of the salt production process). To the northwest is the Pacific Shores Center office complex, to the north and east is Westpoint Slough, with Greco Island beyond (a portion of the Don Edwards National Wildlife Refuge). To the west

and south are additional salt ponds currently operated by Cargill.

The applicant states that the marina will represent the state of the art in marina design and facilities. These will include pump out facilities, a fuel dock, the latest in float, walkway and utility design, guest docking, rowing boathouse, launch ramps, interpretive center, as well as other public and private recreational and boating amenities. He states the goal is to provide an incentive to recreational boating in south San Francisco Bay and a destination attraction for boaters from throughout the Bay area and beyond. Additional applicant information can be found on his website: www.westpointmarina.com

The applicant proposes to create the marina site through the construction of an upland area along his property line crossing what is currently known as Pond 10 (final elevation will be seven feet above Mean Higher High Water (MHHW)). This area will support roadways, the boat maintenance and other public and commercial facilities. To initiate the project, bay water will be pumped into the existing pond to dissolve the bittern. The bittern will then be pumped from the site and used for commercial purposes. Once all the bittern (50,000 cubic yards) has been removed, the site will be dried and the top layer excavated to construct the upland area separating the marina site from the remaining portion of Pond 10.

The marina basin itself will be excavated to a depth of 15 feet below Mean High Water (MHW). The marina basin, engrossing about 14 acres, will require the excavation of approximately 162,000 cubic yards of material (bay mud). The excavated material will be conditioned (dried out) and re-used

on site to create the upland development area of the marina site. The marina basin will have internal side slopes of 4:1 with 12-inch thick slope protection (6-inch minimum to 12-inch maximum broken concrete pieces) placed on the slope within the tidal zone for stabilization and to prevent bank erosion. Along the westerly side of the marina, the applicant proposes to construct a boardwalk area and visitor berthing.

Once the marina basin is complete, water from Westpoint Slough will be siphoned over the levee at high tide into the newly dug marina. When the marina basin is almost full, the levee between it and Westpoint Slough will be breached and the marina will connect directly to the bay. Approximately 5,300 cubic yards of material will be removed to create the levee breach (marina entrance) and access channel to Westpoint Slough. The material removed in breaching the levee will be placed on the upland areas previously created on the project site.

The existing levee along Westpoint Slough adjacent to the project site is bay mud and generally barren with fairly steep slopes that are protected with randomly-placed, large pieces of broken concrete. The applicant proposes to remove and recycle the existing concrete rubble. The levee would then be re-graded to a 3:1 and 2:1 slope and smaller, engineered (6-inch min./12-inch max), broken-concrete slope protection will be uniformly placed along the levee to a thickness of 18 inches. The levee will be a continuation of the existing design immediately west of the site along the Pacific Shores commercial development as directed by the Redwood City Planning Commission.

An existing drainage ditch (containing wetlands subject to Section 404 jurisdiction) extends along the westerly boundary of the project site. This ditch, which separates the site from the Pacific Shores development, enters Westpoint Slough through an existing deteriorated tide gate. The primary and secondary road access to the proposed marina will cross the existing ditch. At those crossings, drainage will be conveyed through 60-inch culverts and the ditch will be filled for the construction of the access roads. At the Westpoint Slough end of the drainage ditch, the levee will be reconstructed as described above, and a new 30-inch culvert will be placed to convey the drainage.

The new culvert will include a trash rack at the upper end and a new tide gate at the discharge into Westpoint Slough.

4. CORPS OF ENGINEER'S JURISDICTION:

The Corps exerts Section 404 jurisdiction over a total of 0.81 acre of wetlands on the project site. This represents the total of the isolated pockets of vegetation, mud flats and tidal wetlands located on and near the toe of the levee and along the drainage ditch. The Corps also exerts jurisdiction over the interior of Pond 10 as it is an impoundment of Waters of the United States. Work to breach the existing levee after marina construction has been completed will require authorization under Section 10 of the Rivers and Harbors Act.

5. WETLAND IMPACTS AND PROPOSED MITIGATION:

As currently designed, the proposed project would permanently fill 0.27 acre of jurisdictional waters of the U.S. (wetlands). With the exception of the two access road crossings over the existing drainage ditch and the new outlet, all identified wetland areas on the project site will be avoided. A total of approximately 11,700 square feet (0.27 acre) of jurisdictional wetlands will be filled to place the 60-inch culverts and construct the primary and secondary access roads, the replacement outfall and the levee along Westpoint Slough.

* To compensate for the loss of 0.27 acre of wetlands in the drainage ditch, the applicant proposes to enhance and enlarge the wetlands in the remainder of the ditch and to create additional wetland areas on isolated fringes of the project site for a replacement ratio of 1:1 or greater.

Additionally, 5 of the 19 acres of impounded jurisdictional waters of the U.S. (Pond 10) would be permanently impacted by the creation of uplands. However, the creation of the marina would return tidal flow and some marine habitat value to 14 of the 19 acres currently without any tidal influence or significant habitat value. The applicant has proposed restoration of tidal action to 14 acres of Pond 10 as mitigation for permanent impacts to 5 acres of Pond 10.

6. STATE APPROVALS: State water quality 401 certification or waiver and San Francisco Bay Conservation and Development certification

(BCDC) is a prerequisite for the issuance of a Department of the Army permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to the Clean Water Act (33 U.S.C. Section 1431). The applicant is hereby notified that, unless the Corps is provided a valid request for water quality certification by the Regional Water Quality Control Board (RWQCB) and the BCDC within 30 days of the date of this Public Notice, the District Engineer may consider the permit application to be withdrawn. No permit will be issued until the applicant obtains the required certifications or waiver. A401 waiver will be explicit, or it may be presumed if the RWQCB fails or refuses to act on a valid request for certification within 60 days after receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for RWQCB to act.

Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period.

Project concerns over compliance with the Coastal Zone Management Act should be directed to SF Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the comment period.

7. COMPLIANCE WITH VARIOUS FEDERAL LAWS

National Environmental Policy Act of 1969

(NEPA): At the conclusion of the public comment period, the Corps will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), the Council on Environmental Quality's Regulations at 40 CFR 1500-1508, and Corps Regulations at 33 CFR 230 and 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of the Corps and other non-regulated activities the Corps determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be

incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army permit for the project.

Endangered Species Act of 1973 (ESA): No federally proposed or listed threatened or endangered species of plants or wildlife are known to inhabit the project area; however some listed species occur in areas adjacent to the project site. Salt ponds typically provide feeding/resting habitat for species such as the listed least tern and/or clapper rail and shoreline marsh/pickleweed often provide habitat for the salt marsh harvest mouse. However, the toxic nature of bittern for aquatic species and the sparse and discontinuous patches of vegetation growing along the levee banks provide suboptimal habitat for endangered species. The project will result in the loss of 2.3 acres of roost habitat. To mitigate for this impact approximately 3.0 acres of replacement roost habitat will be created.

Greco Island located across Westpoint Slough is known to host several listed species: western snowy plover, California clapper rail, and salt marsh harvest mouse. Concern has been expressed over the potential impacts of the proposed project on Greco Island and those species. The applicant proposes to restrict boats from entering shallow mudflats adjacent to Greco Island through marking the channel and erecting signs informing the public not to enter sensitive areas. This latter measure was consistent with the measure required by the U.S. Fish and Wildlife Service for the adjacent Pacific Shores Center with respect to their public launch ramp for non-motorized vessels. It should also be noted that the shoreline of Greco Island in the vicinity of the proposed project consists of broad shallow mudflats that severely restrict any boat or human access.

Federally listed as threatened steelhead may also be using the slough channels around the proposed project site. Construction activities involved in the breaching of the marina may affect on these fish, but it is unlikely.

All consultations required under Section 7 of the Endangered Species Act will be pursued during the Corps application process.

National Historic Preservation Act of 1966

(NHPA): A Corps of Engineers' archaeologist will be requested to conduct a cultural resources assessment of the permit area, involving a review of published and unpublished data on file with city, State, and Federal agencies. If, based on assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps of Engineers will coordinate with the State Historic Preservation Officer to take into account any project effects on such properties.

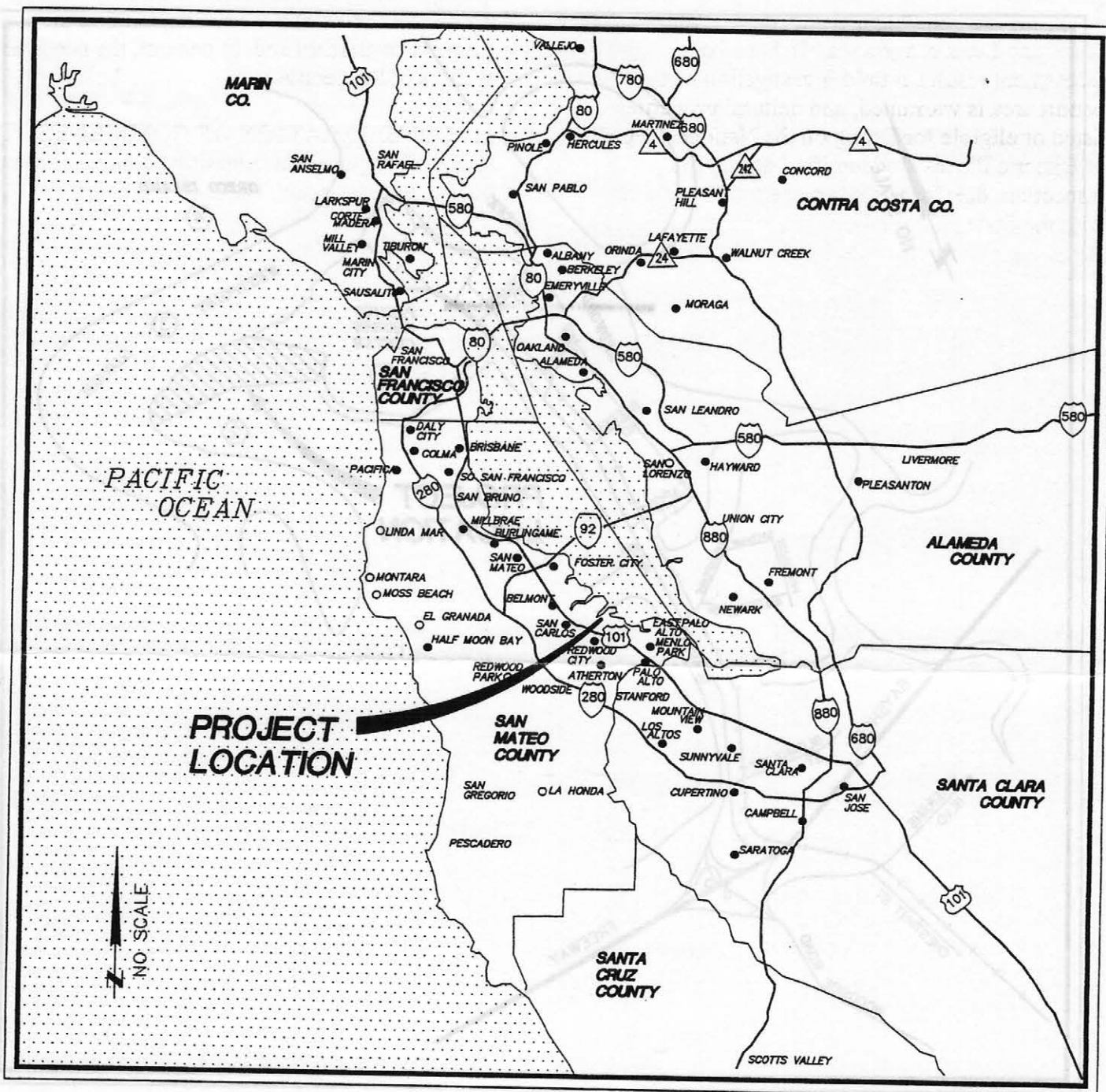
8. EVALUATION OF ALTERNATIVES: The applicant will be required to evaluate alternatives to this project. Evaluation of the proposed project's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404 (b) of the Clean Water Act, (33 U.S.C. 1344(b)). Several alternatives that meet the basic project purpose will be selected for evaluation. Evaluations of alternative that do not impact special aquatic sites (i.e. wetlands) will not be required, as an evaluation pursuant to the Section 404(b)(1) guidelines indicates that the proposed project is a water dependent activity.

9. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors and their cumulative impacts must be considered, relevant to the proposal. These factors include conservation; economics; aesthetics; general environmental concerns; wetlands; cultural values; fish and

wildlife values; flood hazards; floodplain values; land use; navigation; shore erosion and accretion; recreation; water supply and conservation; water quality; energy needs; safety; food and fiber production; mineral needs; consideration of property ownership and, in general, the needs and welfare of the people.

10. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

11. SUBMITTING COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name, the number and the date of this Notice, and should be forwarded so as to reach this office within the comment period specified on page one of this Notice. Comments should be sent to: Regulatory Branch, Attention: Phelicia Gomes. It is the Corps policy to forward any such comments, which include objections, to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Notice that a public hearing be held to consider this application. Requests for public hearings shall state with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant, whose address is indicated on the first page of this notice, or by contacting Phelicia Gomes of our office at telephone (415) 977 - 8452. Details on any changes of a minor nature which are made in the final permit action will be provided upon request.



PURPOSE: MARINA DEVELOPMENT

DATUM: NGVD 1929 + 100 FT

ADJACENT PROPERTY OWNERS:

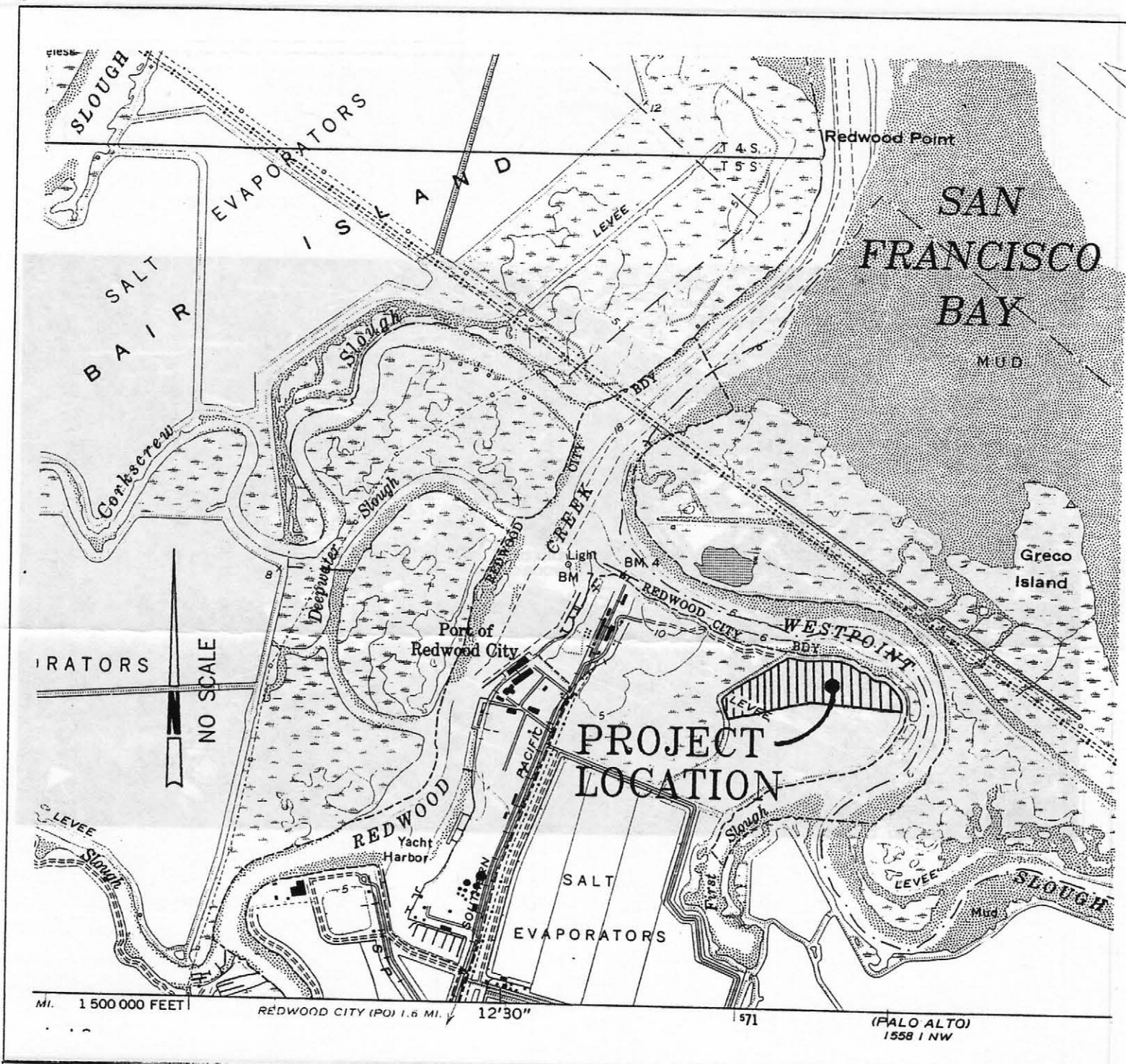
- ① PACIFIC SHORES DEVELOPMENT, LLC
- ② CARGILL SALT COMPANY
- ③ LANDS OF THE STATE OF CA (WESTPOINT SLOUGH)
- ④ SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

WESTPOINT MARINA & BOATYARD VICINITY MAP

MARK SANDERS
280 BERNARDO WAY
MOUNTAIN VIEW, CA 94043

PROPOSED MARINA

IN AND ADJACENT TO: WESTPOINT SLOUGH
AT: REDWOOD CITY
COUNTY: SAN MATEO STATE: CA
APPLICATION BY: MARK SANDERS
SHEET 1 OF 15 DATE 12/26/01



PURPOSE: MARINA DEVELOPMENT

DATUM: NGVD 1929

ADJACENT PROPERTY OWNERS:

- ① PACIFIC SHORES DEVELOPMENT, LLC
- ② CARGILL SALT COMPANY
- ③ LANDS OF THE STATE OF CA (WESTPOINT SLOUGH)
- ④ SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

WESTPOINT MARINA & BOATYARD
REDWOOD POINT
7.5 MINUTE QUADRANGLE

MARK SANDERS
280 BERNARDO WAY
MOUNTAIN VIEW, CA 94043

PROPOSED MARINA

IN AND ADJACENT TO: WESTPOINT SLOUGH

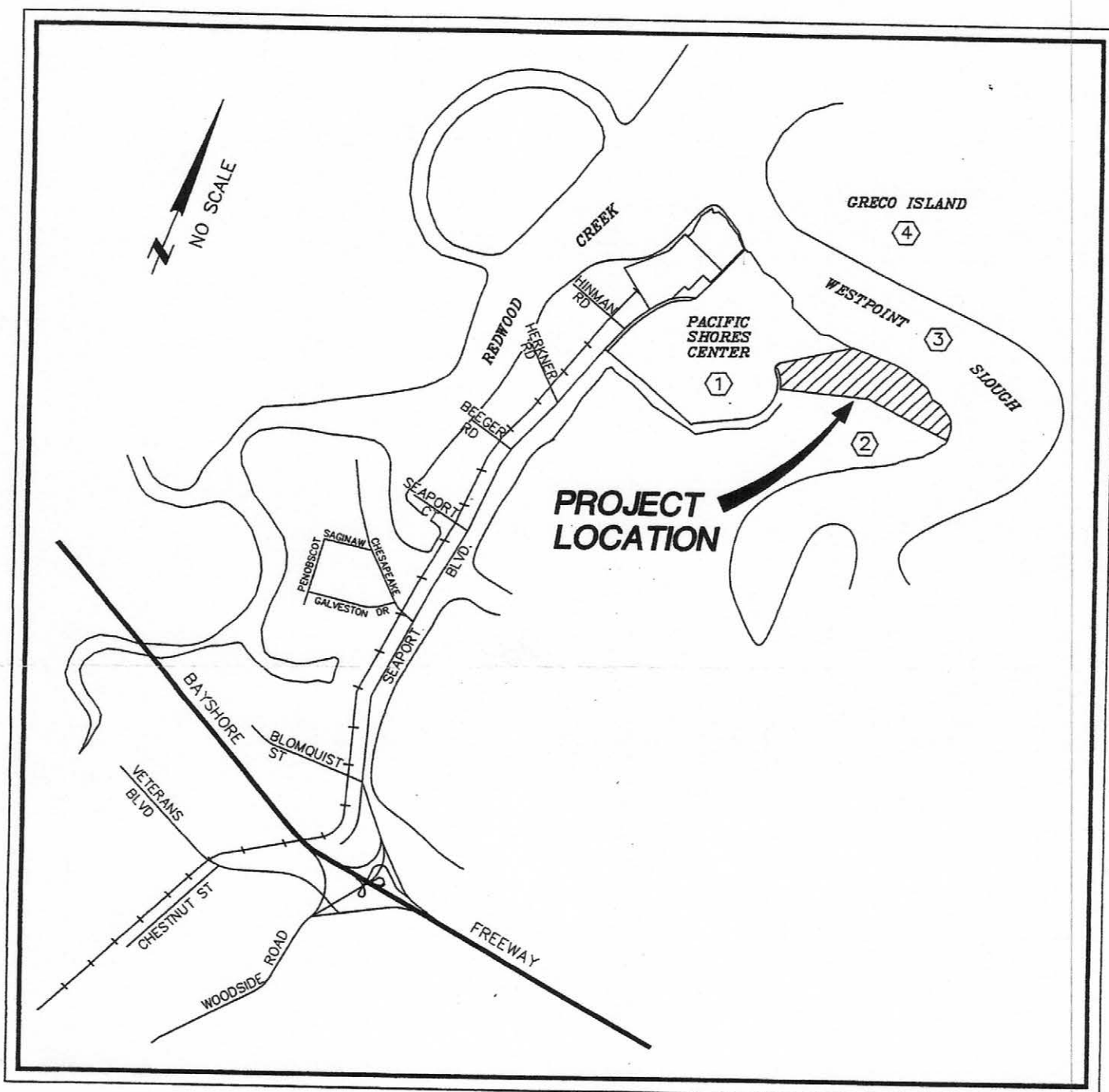
AT: REDWOOD CITY

COUNTY: SAN MATEO STATE: CA

APPLICATION BY: MARK SANDERS

SHEET 3 OF 15

DATE 12/26/01



PURPOSE: MARINA DEVELOPMENT

DATUM: NGVD 1929 + 100 FT

ADJACENT PROPERTY OWNERS:

- ① PACIFIC SHORES DEVELOPMENT, LLC
- ② CARGILL SALT COMPANY
- ③ LANDS OF THE STATE OF CA (WESTPOINT SLOUGH)
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WESTPOINT MARINA & BOATYARD LOCATION MAP

MARK SANDERS
280 BERNARDO WAY
MOUNTAIN VIEW, CA 94043

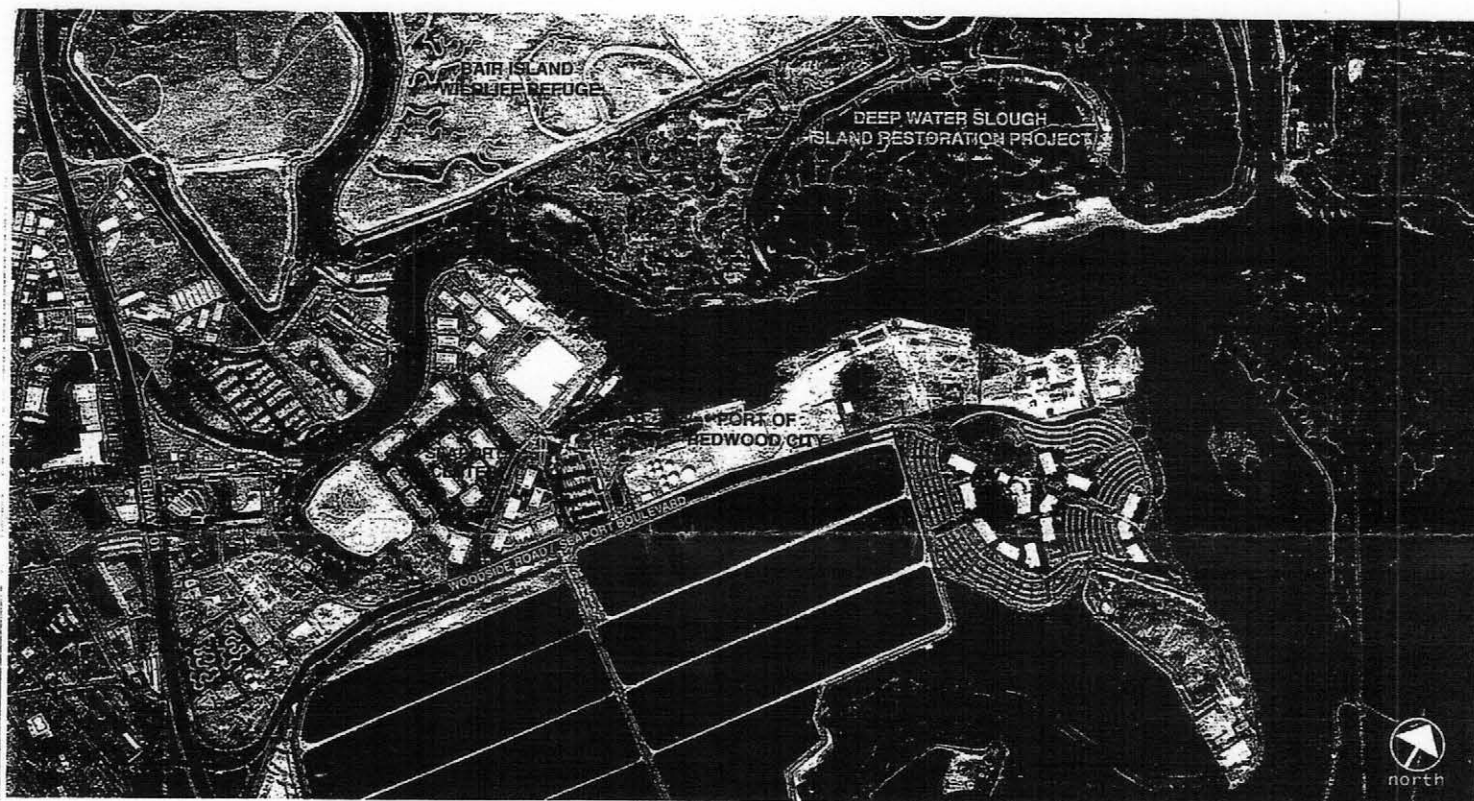
PROPOSED MARINA

IN AND ADJACENT TO: WESTPOINT SLOUGH
AT: REDWOOD CITY

COUNTY: SAN MATEO STATE: CA

APPLICATION BY: MARK SANDERS

SHEET 2 OF 15 DATE 12/26/01



PURPOSE: MARINA DEVELOPMENT

DATUM: NGVD 1929

ADJACENT PROPERTY OWNERS:

- ① PACIFIC SHORES DEVELOPMENT, LLC
- ② CARGILL SALT COMPANY
- ③ LANDS OF THE STATE OF CA (WESTPOINT SLOUGH)
- ④ SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

WESTPOINT MARINA & BOATYARD
SITE PLAN DRAWING

MARK SANDERS
280 BERNARDO WAY
MOUNTAIN VIEW, CA 94043

PROPOSED MARINA

IN AND ADJACENT TO: WESTPOINT SLOUGH
AT: REDWOOD CITY

COUNTY: SAN MATEO STATE: CA

APPLICATION BY: MARK SANDERS

SHEET 4 OF 15 DATE 12/26/01